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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,619	07/22/2003	Mahesh Balu Mistry	15772.0006	5053
23517	7590	05/03/2006	EXAMINER	
SWIDLER BERLIN LLP 3000 K STREET, NW BOX IP WASHINGTON, DC 20007			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,619

Applicant(s)

MISTRY ET AL

Examiner

Hanh V. Tran

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-14, 16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-14, 16, 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a Second Non-Final Office action from the examiner in charge of this application in response to applicant's amendment filed on 2/6/2006. Upon further consideration, the indicated allowability of claims 3-7, and 17-18 is hereby withdrawn. A new rejection is follow. Any inconvenience is regretted.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12, lines 1-4, the limitation "wherein the second component...the interior wall" appears to be to have the same scope as the limitation in claim 1. Claim 12, line 4, "the interior wall" lacks antecedent basis, thus indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,179,144 to Abroy et al.

Abroy et al discloses a cabinet comprising all the elements recited in the above listed claims including a back portion 24 fixedly connectable to a wall, a cover portion 36 cooperating with the back portion 24 to form an interior space and being detachably connected to the back portion, a hinge structure 48 having a first component connected to one of the back portion 24 and the cover portion 36 and a second, complementary component connected to the other of the back portion 24 and the cover portion 36; a vent formed in the cover portion 36, such as shown in Fig 4, a water diverting plate 28 juxtaposed the vent and being disposed on the back portion; wherein the hinge structure includes a pair of mounting brackets formed on opposite sides of the back portion, and pivot pin engaging each of the mounting brackets, the vent comprises a gap formed between the cover portion and the wall.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abroy et al in view of USP 4,223,965 to Palandrani.

Abroy et al discloses a cabinet comprising all the elements recited in the above listed claims including a back portion 24 fixedly connectable to a wall, a cover portion 36 cooperating with the back portion 24 to form an interior space and being detachably connected to the back portion, a hinge structure 48 having a first component connected to one of the back portion 24 and the cover portion 36 and a second, complementary component connected to the other of the back portion 24 and the cover portion 36; a vent formed in the cover portion 36, such as shown in Fig 4, a water diverting plate 28 juxtaposed the vent and being disposed on the back portion; wherein the hinge structure includes a pair of mounting brackets formed on opposite sides of the back portion, and pivot pin engaging each of the mounting brackets, the vent comprises a gap formed between the cover portion and the wall. The different being that Abroy et al does not clearly disclose spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion.

Palandrani discloses a wall mounted cabinet comprising spacer means comprising a plurality of protrusions 19 extending outwardly from a rear surface of the back portion, such as shown in Figs 2-3, in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet. Therefore, it would have been obvious to modify the structure of Abroy et al by providing spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion in order to facilitate mounting the cabinet to a

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wall, at the same time preventing water from seeping along the wall into the interior of the cabinet, as taught by Palandrani, since both teach alternate conventional wall mounted cabinet structure, used for the same intended purpose, thereby providing structure as claimed.

9. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abroy et al in view of Palandrani.

Abroy et al discloses all the elements as discussed above except for spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion.

Palandrani discloses a wall mounted cabinet comprising spacer means comprising a plurality of protrusions 19 extending outwardly from a rear surface of the back portion, such as shown in Figs 2-3, in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet. Therefore, it would have been obvious to modify the structure of Abroy et al by providing spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet, as taught by Palandrani, since both teach alternate conventional wall mounted cabinet structure, used for the same intended purpose, thereby providing structure as claimed.

Allowable Subject Matter

10. Claims 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*
April 30, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
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Lanna Mai